their Lordships consider that there was sufficient to entitle the learned judge and the Federal Court on appeal to hold, as they did, that these payments were made by or at the direction of the appellants as administrators of the deceased's estate. It was suggested on behalf of the appellants that the payments, the making of which was not seriously disputed, might have been made purely *ex gratia* on compassionate grounds. If such a case were to be made it would have been for the appellants, who were in possession of all the material facts about the payments, to have offered evidence in support of it. In the absence of any such evidence the proper inference is that the payments were made in respect of the respondents' claim on the deceased's estate. In the circumstances section 26(2) of the Ordinance applies to the effect that time did not begin to run under section 23 in respect of the respondents' claim until the date of the last payment in 1975. If follows that the respondents' action was raised well within the limitation period.

For these reasons their Lordships will advise His Majesty the Yang di-Pertuan Agong that the appeal should be dismissed. The appellants must pay the respondents' costs of the appeal.

Appeal dismissed.

Solicitors: *Philip Conway Thomas & Co.; Gasters.*

SINGAPORE REPORTS

SINGAPORE BUS SERVICE (1978) LTD. v. LIM SOON YONG

[C.A. (Kulasekaram, Sinnathuray & Chua JJ.) September 7, 1983]

[Singapore – Civil Appeal No 18 of 1983]

Central Provident Fund – Fatal accident – Dependency – C.P.F. contribution of deceased forms part of the dependency claim.

Damages – Fatal accident – Dependency claim – C.P.F. contribution of deceased forms part of dependency claim – Civil Law Act (Cap. 30), s. 12(8).

Damages – Quantum – Fatal accident – 32 year old store purchasing officer – Award of dependency claim totalling $148,000 – Civil Law Act (Cap. 30), s. 12(8).

The respondent brought an action against the appellant under section 12(8) of the Civil Law Act (Cap. 30) as the widow of Kwan Yat Hong for the benefit of the dependants of Kwan Yat Hong who was killed in a motor accident when his car collided with a motor bus driven by the appellants' servant on May 26, 1979.

On October 15, 1982, judgment by consent was given for the respondent and damages were ordered to be assessed by the Registrar and costs to be taxed. On January 31, 1983, the Asst. Registrar assessed the damages at the sum of $3,000 for funeral expenses, $59,808.00 to the respondent as dependency under section 12, $44,856.00 to the respondent as dependency from the Central Provident Fund (C.P.F.) and $13,896.00 to the respondent for the mother of the deceased as a dependant.

The respondent appealed against the decision of the Asst. Registrar. Abdul Wahab Ghows J. increased to $148,000 the dependency claim of the respondent and ordered that the award of $44,856.00 as dependency from the C.P.F. to remain.

The deceased was aged 32. He was drawing a basic salary of $950.00 p.m. as a Store Purchasing Officer.

Held: (1) the learned judge did not in fact increase the dependency claim of the respondent from $59,808.00 to $148,000.00. The learned judge increased it to $128,000.00. $20,000.00 of the $148,000.00 was for the mother;

(2) the Asst. Registrar when taking the respondent's dependency to be $400.00 p.m. had failed to take into account the pecuniary loss which it was estimated the dependant would sustain in the future;

(3) the learned judge had applied the principles laid down in *Cookson* v. *Knowles*[1] and did not err in law;

(4) C.P.F. contribution formed part of the widow's dependency claim.

Case referred to:

(1) *Cookson* v. *Knowles* [1978] 2 All E.R. 604.

COURT OF APPEAL.

Y.H. Cheong for the appellant.
D. Murphy for the respondent.

Cur. Adv. Vult.

Chua J. (delivering the judgment of the Court): This appeal arises from an action by the respondent against the appellants. The respondent brought the action under section 12(8) of the Civil Law Act (Cap. 30) as the widow of Kwan Yat Hong for the benefit of the dependants of Kwan Yat Hong who was killed whilst driving a motor car which collided with a motor bus driven by the servant of the appellants along Commonwealth Avenue West on May 26, 1979.

When the action came on for hearing on October 15, 1982, judgment by consent was given for the respondent and damages were ordered to be assessed by the Registrar and costs to be taxed.

On January 31, 1983, the Assistant Registrar assessed the damages at the sum of $3,000 for funeral expenses, $59,808.00 to the respondent as dependency under section 12, $44,856.00 to the respondent as dependency from the Central Provident Fund (CPF) and $13,896.00 to the respondent for the mother of the deceased as a dependant.

The respondent appealed against the decision of the Assistant Registrar. Abdul Wahab Ghows, J. increased to $148,000.00 the dependency claim of the respondent and ordered that the award of $44,856.00 as dependency from the CPF to remain.

The appellants are dissatisfied with the judgment of Abdul Wahab Ghows, J. increasing the dependency claim of the respondent from $59,808.00 to $148,000.00 and awarding the dependency of $44,856.00 from the CPF.

The appellants say that the increase of the dependency claim to the respondent to $148,000.00 was not justified by the evidence before the learned Judge.

The learned Judge did not in fact increase the dependency claim of the respondent from $59,808.00 to $148,000.00. The learned Judge increased it to $128,000.00. $20,000 of the $148,000 was for the mother.

In calculating the damages to be awarded the Assistant Registrar took the respondent's dependency to be $400 p.m. and applying a multiplier of 20 years purchase this came to $59,808.00.

The deceased was aged 32. He was in a steady job as a Store Purchasing Officer. The evidence was that in April, 1979, he was drawing a basic salary of $950.00 p.m. If he had not died he would have been promoted to Materials Manager and would be getting $2000.00 p.m. in July, 1981, and $2200.00 p.m. in 1982 like Mr. Lee who was recruited in September, 1979, to take the deceased's place. The deceased died in May, 1979, and his position had to be filled.

The Assistant Registrar when taking the respondent's dependency to be $400.00 p.m. had failed to take into account the pecuniary loss which it was estimated the dependant would sustain in the future.

In *Cookson* v. *Knowles*[1], the House of Lords held –

> "(i) In the current financial climate a more reliable assessment of the loss sustained by a dependant as a result of the deceased's death could be obtained in normal fatal accident cases if the damages were split into two parts (a) the pecuniary loss which it was estimated had been sustained by the dependant from the date of death until the date of trial ('the pre-trial loss'), and (b) the pecuniary loss which it was estimated the dependant would sustain from the trial onwards ('the future loss') for which the proper multiplicant was the figure to which it was estimated the annual dependency would have amounted by the date of the trial and damages should as a general rule be assessed in that way in such cases."

The case of *Cookson* v. *Knowles* was cited to the learned Judge and he must have applied the principles laid down in that case when assessing the damages.

It seems to us that the learned Judge has applied the correct principles and we cannot say that he has erred in law and in fact as submitted by the appellants.

The contention of the appellants is that the CPF contributions cannot form part of a dependency claim. It is money held in trust by the CPF Board and when the contributor reaches the age of 55 it would go to the contributor. If the contributor dies before the age of 55 the money is paid to the nominee but not as a dependant. It is not money on which the family depends on from day to day.

We are unable to accept the contention of the appellants. CPF contributions are not chargeable with estate duty. The money does not go to the estate of the contributor. In this case it goes to the widow and the parents of the deceased. Had the deceased lived to the age of 55 he would have withdrawn the sum standing to his credit in the CPF and the widow and children would necessarily have benefited from the deceased having this money if not for this accident. In our view, therefore, the CPF contributions do form part of the widow's dependency claim.

Since there is no appeal on the quantum we will not disturb the award under this head.

For these reasons this appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *Chan, Goh & Co.; Godwin & Co.*

THE COMPTROLLER OF INCOME TAX v. BEAVER SINGAPORE PTE. LTD.

[O. C. J. (Wee Chong Jin C.J.) January 31, 1979]
[Singapore – Suit No. 654 of 1978]

Revenue Law – Income Tax – Company under liquidation in a winding up – Tax liability – Assessment – Failure to pay – Penalty for non-payment – Refusal of Registrar to stay execution on 0.14 – Court's discretion to grant stay – Income Tax Act (Cap. 141), ss. 59, 86 & 90 – R.S.C. 1970, O. 14.

The Comptroller assessed the defendant company income tax for 1973 at $11,602,014.00. The Company was under voluntary liquidation by a shareholders' resolution. They challenged the assessment and applied to the Comptroller to review and revise the assessment. The Comptroller issued a notice of demand and wrote to the defendant company stating that he did not propose to revise his assessment. The defendant appealed to the Board of Review. Before the appeal could be heard, the Comptroller commenced proceedings by issuing a Writ of Summons claiming against the defendant company the sum assessed and a penalty for non-payment. The Comptroller applied for a summary judgment. The defendant moved to the High Court for an order that the action be stayed and to restrain the Comptroller from taking any further steps in the action until further order of the court. The motion was dismissed by the High Court. The Comptroller's application for summary judgment came before the Registrar who gave liberty to the Comptroller to sign final judgment against the defendant for the total sum of $12,182,114.70.

Held, dismissing the appeal: (1) by virtue of section 86 of the Income Tax Act the tax raised became payable within one month after service of the notice of assessment, notwithstanding any objection or appeal against the assessment on which tax was levied;

(2) by virtue of section 90 of the Act, tax and any penalty under the Act may be sued for by the Comptroller by way of a specially endorsed Writ of Summons and in such a suit the production of a certificate signed by the Comptroller giving the amount of the tax due by the defendant shall be sufficient evidence of the amount due and sufficient authority for the court to give judgment;

(3) the mere fact that a person assessed to tax, who has failed to pay the amount of the tax due, disputes the liability to tax or the amount due was not a sufficient ground entitling him to have leave to defend an action brought by the Comptroller

(4) with regard to the refusal by the Registrar to stay execution on 0.14 judgment the argument that there were merits in the appeal was not a special circumstance which rendered it inexpedient to enforce judgment. On the facts disclosed the liquidators were aware that the defendant company might be assessed to tax and yet chose to distribute the company's cash assets inspite of the clear provisions of s. 59 of the Act, therefore the court declined to exercise the discretion to grant stay.

CIVIL SUIT.

Nand Singh Gandhi (Legal Officer/State Counsel) for the applicant.

Dennis Murphy (*Miss Belinda Ang* with him) for the defendant.

Cur. Adv. Vult.

Wee Chong Jin C.J.: The Comptroller of Income Tax, by a Notice of Assessment dated November 19, 1975, assessed the defendant company's income tax for the Year of Assessment 1973 at $11,602,014.00. The defendant company was then under voluntary liquidation by a shareholders' resolution dated July 19, 1972. The defendant company challenged the assessment and applied to the Comptroller to review and revise the assessment. On December 26, 1975, the Comptroller issued a notice of demand. On July 25, 1977 the Comptroller wrote to the defendant company stating that he did not propose to revise his assessment. The defendant company, on July 27, 1977 filed with the Income Tax Board of Review a Notice of Appeal appealing against the Comptroller's assessment and filed the Petition of Appeal on August 22, 1977.

Before the appeal to the Board of Review was heard the Comptroller commenced the present proceedings by issuing a Writ of Summons on March 3, 1978 claiming against the defendant com-